

# PATENT COOPERATION TREATY

# PCT

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Rec'd PCT/PTB 20 APR 2005

Applicant's or agent's file reference M/44264-PCT	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/PEA/416)	
International application No. PCT/EP 03/11825	International filing date ( <i>day/month/year</i> ) 24.10.2003	Priority date ( <i>day/month/year</i> ) 25.10.2002
International Patent Classification (IPC) or both national classification and IPC A01M1/20		
Applicant BASF AKTIENGESELLSCHAFT et al.		
<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of 5 sheets, including this cover sheet.</p> <p><input type="checkbox"/> This report is also accompanied by ANNEXES, i.e. sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of    sheets.</p>		
<p>3. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> <li>I    <input checked="" type="checkbox"/> Basis of the opinion</li> <li>II   <input type="checkbox"/> Priority</li> <li>III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</li> <li>IV   <input type="checkbox"/> Lack of unity of invention</li> <li>V    <input checked="" type="checkbox"/> Reasoned statement under Rule 66.2(a)(ii) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</li> <li>VI   <input type="checkbox"/> Certain documents cited</li> <li>VII <input type="checkbox"/> Certain defects in the international application</li> <li>VIII <input type="checkbox"/> Certain observations on the international application</li> </ul>		
Date of submission of the demand  24.05.2004	Date of completion of this report  11.01.2005	
Name and mailing address of the international preliminary examining authority:  <div style="display: flex; align-items: center;"> <div>             European Patent Office              D-80298 Munich              Tel. +49 89 2399 - 0 Tx: 523656 epmu d              Fax: +49 89 2399 - 4465           </div> </div>	Authorized Officer  Bunn, D  Telephone No. +49 89 2399-2086	



**INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT**

International application No. PCT/EP 03/11825

**I. Basis of the report**

1. With regard to the **elements** of the international application (*Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rules 70.16 and 70.17)*):

**Description, Pages**

1-9 as originally filed

**Claims, Numbers**

1-16 as originally filed

**Drawings, Sheets**

1/4-4/4 as originally filed

2. With regard to the **language**, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language: , which is:

- ☐ the language of a translation furnished for the purposes of the international search (under Rule 23.1(b)).  
☐ the language of publication of the international application (under Rule 48.3(b)).  
☐ the language of a translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any **nucleotide and/or amino acid sequence** disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.  
☐ filed together with the international application in computer readable form.  
☐ furnished subsequently to this Authority in written form.  
☐ furnished subsequently to this Authority in computer readable form.  
☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.  
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. The amendments have resulted in the cancellation of:

- ☐ the description, pages:  
☐ the claims, Nos.:  
☐ the drawings, sheets:

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5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed (Rule 70.2(c)).

*(Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.)*

6. Additional observations, if necessary:

**V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement**

**1. Statement**

Novelty (N)	Yes: Claims	1-16
	No: Claims	
Inventive step (IS)	Yes: Claims	1-16
	No: Claims	
Industrial applicability (IA)	Yes: Claims	1-16
	No: Claims	

**2. Citations and explanations**

**see separate sheet**

## V. Reasoned statement

1. US 2002/116866 (D1) discloses a termite monitoring device comprising a housing 20<sup>1</sup> defining a cavity and opening 32 as in lines 1-4 of claim 1, a bait material disposed in the cavity and an inspection hatch 38<sup>2</sup> allowing visual inspection of the cavity from outside the housing.

The device of claim 1 thus differs from that of D1 in further comprising:

- i) a perforated bait cartridge configured to fit within the cavity, within which the bait material is disposed;
- ii) a mesh-like member covering the opening.

Concerning feature i): The only disclosure of a perforated bait cartridge is in US 2002/148157 (D2), where it is employed in order to prevent human contact with *toxic* bait material (para. [0041], last 5 lines). However, there would be no reason to apply such a cartridge to the device of D1. Firstly, D1 deals exclusively with *non-toxic* bait (para.[0017]), thus rendering it unnecessary to avoid such human contact. Secondly, the device of D1 would require considerable modification in order to allow the cartridge 90 of D2 to be used therewith.

Concerning feature ii): The plurality of openings 32 in the bottom wall of D1 are equivalent in form to a mesh-like member, and no inventive activity can be seen in using a separately fabricated mesh-like member in place of a member which is integrally formed within the bottom wall.

Of the remaining documents cited in the search report, US 2002/134004 (D3) discloses a housing 10 with a mesh-like member 38, bait material 24 and inspection hatch 66, while WO-A-96/32009 (D4) discloses a housing 10 with a mesh-like member 13, bait material 16 and inspection hatch 32. However, in view of the nature of the bait material of D3 (paras.[0052] & [0066]; fig.2) and of D4 (p.4, l.15-17; fig.4), there would again be no reason to apply the perforated bait container of D2 to either of these documents.

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<sup>1</sup>The terms "camouflaged" and "landscape" simply mean "designed to conceal or deceive" and "area of scenery" respectively. Thus, in certain locations, the device of D1 may also be considered as being *camouflaged* and *configured as a landscape element*, as specified in claim 1.

<sup>2</sup>The hatch 38 of D1 is perfectly capable, if only by means of fibre optics, of allowing visual inspection of the cavity.

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It follows that the subject matter of claim 1 meets the requirements of Article 33 PCT.

2. For reasoning identical to that provided with respect to claim 1, the subject matter of method claim 1 likewise meets the requirements of Article 33 PCT.
3. Claims 2-9 & 11-16 relate to preferred embodiments of claims 1 & 10 respectively and so also meet the requirements of Article 33 PCT.
4. Contrary to the requirements of Rule 5.1(a)(ii) PCT, the relevant background art disclosed in D1 & D2 is not mentioned in the description, nor are these documents identified therein.
5. The features of the claims are not provided with reference signs placed in parentheses (Rule 6.2(b) PCT).